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Fifty-fifth session

SUMMARY RECORD OF THE 24th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 9 April 1999, at 10 a.m.

Chairperson: Ms. ANDERSON (Ireland)

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The meeting was called to order at 10 a.m.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 10) (continued) (E/CN.4/1999/44 and Add.1 and 2, 45-51, 112 and Add.1, 115; E/CN.4/1999/NGO/48, 49 and 57; A/53/293 and Add.1; A/RES/53/141)

1. Mr. HALEPOTA (Liberation) said that in many underdeveloped countries people not only suffered from war and natural disasters, but were also deprived of essential food and medicines because their Governments had to pay huge amounts of interest on their external debt. Liberation strongly opposed the proposal by some Governments to write off debt in return for managing the economies of indebted countries. That would formally begin a new process of colonization. The debt should be written off unconditionally, since it had been incurred in the first place as a result of the policies of the western financial institutions and Governments.

2. It was also alarming to learn that the International Monetary Fund (IMF) did not concern itself with the situation of human rights in the countries to which it accorded funds. Yet it must be aware that States such as Myanmar, Pakistan, India, Sri Lanka and Indonesia often used those funds to purchase arms, which were then used against their own people.

3. India and Pakistan, for example, spent vast sums on the nuclear arms race at a time when many children in those countries lacked the basic necessities of life. Pakistan spent 22.47 per cent of its budget on defence and only 0.47 per cent on health and 0.14 per cent on education. Liberation thus welcomed the talks between India and Pakistan aimed at resolving their differences through dialogue rather than through an arms race.

4. One flagrant example of the violation of economic, social and cultural rights was provided by Pakistan. In the province of Sindh, for example, the local population had been deprived of its lands, which were allocated to settlers, and their natural resources were shamelessly plundered. Their traditional way of life, their means of subsistence and the environment were seriously threatened.

5. In Sri Lanka, the Tamil people were also unable to enjoy those rights because of the policies of successive Governments, which were always led by the Sinhalese. The economic embargo imposed on the Tamil-controlled regions by the Government for the past 9 years and the population displacements caused by 17 years of armed conflict had further aggravated the situation.

6. Mr. PARY (Indian Movement "Tupaj Amaru") said that the neo-liberal policy pursued by IMF and the World Bank, which had originally been set up to promote economic development in the Third World, merely exacerbated the situation of those countries in the areas of health, education and employment.

7. The external debt phenomenon was a logical continuation of the colonial process begun in 1492 and threatened the stability of the world economy, as could be seen from the financial crises that had struck Mexico, Russia, Asia and Brazil. Each year the indebted countries paid the industrialized countries more than $50 billion in debt service. Universal application of the doctrine of neo-liberalism and implementation of structural adjustment

programmes merely intensified the plundering of the Third World's resources, exploitation of cheap labour and extreme poverty. The Commission should respond to that situation by urgently recommending changes to the rules governing the international financial institutions. In 1995 it had been estimated that 20 per cent of the world's population lived in extreme poverty. It was the indigenous populations who suffered the most. His organization thus invited the independent expert on the question of human rights and extreme poverty to visit the indigenous communities so as to take stock of that harsh reality.

8. Mr. MORA SECADE (Centro de Estudios Europeos) said that most Governments, whether in the developed or developing countries, did not have the necessary political will gradually to achieve the full realization of economic, social and cultural rights. Repayment of the external debt, which enabled the international banks to grow richer and structural adjustment policies imposed by IMF to be implemented to the benefit of the richest countries, led to increased poverty, hunger, illiteracy and mortality in the developing countries. The Governments of those countries that had accepted such programmes were not free from blame, for they had done so at the expense of the living conditions of the most vulnerable sectors of their population's, whom it was their duty to protect.

9. International cooperation had been supposed to contribute to the realization of economic, social and cultural rights. Yet there had been a trend away from official development assistance towards bilateral cooperation, which was more and more often subordinated to conditions detrimental to the sovereignty of the beneficiary countries, and which was granted not to the neediest countries but to those that satisfied certain political, economic and commercial criteria set by the donor countries. The transnational corporations, supported by the Governments of the developed countries, had not only succeeded in preventing the drafting of a code of conduct regulating their activities, but were also seeking, through the World Trade Organization (WTO) and the draft multilateral agreement on investments, to impose a neo-liberal philosophy that would lead the world into social and ecological disaster.

10. Moreover, unilateral coercive measures were also imposed, with impunity and against the will of the international community, on developing countries. The blockade imposed on Cuba by the United States of America was one tragic example. The time had come for the international community, which had recognized the indivisibility, interdependence and universality of human rights, to acquire the necessary means of denouncing violations of those rights.

11. Ms. PARKER (International Educational Development) said that sanctions imposed on a country must never have a negative impact on humanitarian law and human rights. The sanctions imposed on Iraq constituted a violation of the 1949 Geneva Conventions and the 1977 Protocols Additional thereto, as they impeded the delivery of foodstuffs and basic medicine, in which the population was sorely lacking. In 1995 the World Health Organization (WHO) had reported that 30 per cent of children under the age of 5 showed signs of severe malnourishment and stunting marasmus. In 1997 it had reported an alarming worsening of children's health and nutritional situation. The United States

of America's insistence of maintaining economic sanctions might perhaps be related to its use during the Gulf war of weaponry containing depleted uranium, a substance which caused cancers, birth defects and other medical problems: the sanctions ensured that no proper investigation could be conducted into the matter.

12. It was the duty of the Commission impartially to address the human rights and health implications of the sanctions. The use of illegal and toxic weapons constituted toxic dumping and should thus be considered by the Special Rapporteur on that question, Mrs. Ksentini. The Commission should also condemn the United States sanctions against Cuba.

13. Lastly, her organization invited the Commission to consider the deplorable situation of indigenous people in Mexico generally, and particularly in the State of Chiapas, where the prolongation of the conflict was due to the unwillingness of the Mexican authorities to address the situation in a realistic way.

14. Ms. HARDEN (International Human Rights Law Group) said that "environmental racism" occurred when racial or ethnic minorities were more affected than the rest of the population by projects which had a negative impact on the environment. In the United States of America, for example, polluting industries were concentrated in areas whose population was predominantly African American, indigenous, Latino and Asian American. That partly explained why the life expectancy of those minorities was lower than that of the rest of the population. Such a policy was contrary, on the one hand, to article 12 of the International Covenant on Economic, Social and Cultural Rights - an instrument the United States of America had not ratified - which stated that everyone had the right to the enjoyment of the highest attainable standard of physical and mental health, and, on the other hand, to the International Convention on the Elimination of All Forms of Racial Discrimination, which the United States of America had ratified in 1994 but had yet to implement. Industrial exploitation of the environment had resulted in increasing poverty for communities of colour that lacked the financial means to move elsewhere and seriously threatened their traditional lifestyles and means of subsistence.

15. The International Human Rights Law Group therefore urged the Commission to expand the mandate of the Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights to examine the question of "environmental racism" and to ensure that the subject was included as an agenda item of the World Conference Against Racism.

16. Mr. ROMAZZOTTI (International Movement ATD Fourth World) recalled that according to the Vienna Declaration it was essential to encourage participation by the most deprived sections of the population in decision-making in the communities in which they lived, in the promotion of human rights and in the struggle against poverty.

17. In 1996, on the occasion of the United Nations International Year for the Eradication of Poverty, the Secretary-General of the United Nations had received a delegation of deprived persons for a discussion about the best ways

of eradicating poverty. Persons living in extreme poverty had also been associated with drawing up the law against exclusions in France and compiling the general report on poverty in Belgium. The Special Rapporteur of the Sub-Commission on the matter, Mr. Despouy, had also compiled his report in the light of conversations he had held with very poor people.

18. In the report she had submitted to the current session, the Independent Expert, Ms. Lizin, had stated that the contribution of persons living in extreme poverty could be decisive in the current discussion of sustainable human development and the right to development. The Independent Expert proposed that a consultation exercise be organized in 1999 with a view to providing the international community with the basic elements for a preliminary draft declaration on human rights and extreme poverty. The International Movement ATD Fourth World supported that proposal, but considered that such a declaration should in no way constitute an instrument establishing minimum rights for the poorest people but rather a means of promoting the enjoyment of indivisible and interdependent human rights by everyone. His Movement further proposed that guidelines be drawn up on combating extreme poverty and poverty, which could be derived from the study undertaken by the Independent Expert on the basis of her comparative analysis of national policies and strategies.

19. As the Independent Expert had emphasized, those working with poor populations had to be provided with the necessary means to carry out their task, and everyone should understand that securing the human rights of the poorest people would be a means of ensuring the establishment of a genuinely democratic society.

20. Ms. PROUVEZ (International Commission of Jurists) said that the best way of strengthening the implementation of economic, social and cultural rights was by establishing an individual complaints procedure, with a view to developing a body of jurisprudence, which was absolutely indispensable if those rights were ever to be taken seriously. It was in that spirit that the International Commission of Jurists had organized, under the auspices of the United Nations High Commissioner for Human Rights, a workshop on the draft Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, which had been held in Geneva on 26 February 1999 and attended by representatives of 54 States and 11 non-governmental organizations (NGOs). The participants had emphasized that it should now be possible at the international level, as was increasingly the case at the national level, to bring cases of violations of economic, social and cultural rights before a competent body.

21. They had considered that in that respect the optional protocol would present several advantages. It would redress the imbalance between civil and political rights on the one hand, and economic, social and cultural rights on the other, while permitting a more precise definition of the nature of the latter. It would also encourage States to adopt measures, particularly legislative, to comply with their obligations under the Covenant. In that respect it was worth pointing out that many measures, which were without financial implications, could be taken immediately to implement those rights.

Furthermore, in its current draft the optional protocol recognized the possibility of submitting collective complaints. Such a procedure would be very useful for communities such as indigenous minorities.

22. With regard to economic globalization, the optional protocol would help clarify possible conflicts between the obligations incumbent on States through international human rights instruments and their obligations under international economic agreements. A more detailed examination of State responsibility would provide an opportunity of clarifying the responsibility of third parties for the violation of economic, social and cultural rights. Participants in the workshop had stressed in particular that the involvement of transnational corporations in violations of those rights was an issue that ought to be tackled.

23. In conclusion, the International Commission of Jurists requested that the draft optional protocol be further considered in a working group of the Commission on Human Rights.

24. Mr. MASOOD (Muslim World League) said that it was not unusual for an occupying Power to deny to peoples engaged in national liberation struggles their economic, social and cultural rights. A case in point was the situation in Indian-occupied Jammu and Kashmir. Indian forces or their hired agents were destroying houses, shops and crops. They were forcibly displacing the populations of whole villages.

25. Furthermore, the Indian authorities displayed total contempt for the religious sentiments of the Kashmiri people. Mosques and other religious sites were routinely desecrated, ransacked and even destroyed. On 7 July 1998 Indian paramilitary forces had forcibly dispersed a religious procession in Srinigar. The Indian Government had denied the Kashmiri political leader, Maulana Abass Ansari, permission to undertake the pilgrimage to Mecca in 1999. India must stop the systematic violation of the economic, social and cultural rights of the Kashmiri people.

26. Ms. MAGZI (World Federation of Trade Unions) said that, as the Working Group on Minorities and various mechanisms of the Commission had repeatedly argued, the protection and promotion of human rights could not be divorced from respect for the basic principles of multiculturalism. In that regard she recalled that the Special Rapporteur on religious intolerance had emphasized in his report on his mission to Pakistan (E/CN.4/1996/95/Add.1, paras. 71 and 72) that Pakistani society was characterized by social structures which often appeared conservative and little open to change, and that religious extremism was one of the main driving forces of religious intolerance. Since 1998, however, the Pakistani leadership had, for reasons that were more political than religious, been seeking to amend the Constitution with a view to making the Koran and Shariah the supreme law of Pakistan. If one looked at the abuses to which existing religion-based legislation gave rise in Pakistan, one could imagine the likely consequences of such a constitutional amendment. That was the case with Ordinance XX of 28 April 1984 defining crimes against Islam and the punishments for those who committed them, which the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in its resolution 1985/21, had considered violated the right to liberty and security of the person, the right to freedom of thought, expression,

conscience and religion, the right of religious minorities to profess and practise their own religion and the right to an effective legal remedy. In the same resolution the Sub-Commission requested the Commission on Human Rights to call on the Government of Pakistan to repeal Ordinance XX. In 1986, the Government of Pakistan had reacted by incorporating an article 295-c in the Pakistan Legal Code making the death sentence mandatory for anyone convicted of blaspheming the Prophet. That provision, which had already been applied on many occasions, was still in force.

27. Mr. YOUSAF (World Muslim Congress) said that discrimination based on religion, caste, creed or ethnic origin resulted in the erosion of the economic, social and cultural rights of many peoples, whether they were Bosnians or Palestinians subject to the will of an aggressor or occupying power or Kosovars chased from their homes and dispossessed of their property and identities.

28. In the case of Jammu and Kashmir, the population saw its economic, social and cultural rights systematically denied. In the rest of India, the enjoyment of those rights depended on the caste or religious group to which one belonged. Lower-caste Indians such as Dalits were altogether without rights. Their movements for land reform and economic and social change had been systematically suppressed by landowners belonging to higher castes. To perpetuate their power, the latter did not hesitate to resort to violence, in particular against women, often with the complicity of the police. Persons belonging to the Christian, Sikh, Muslim or other minorities were considered second-class citizens in India and enjoyed only limited economic, social and cultural rights. Their places of worship were vandalized and desecrated. Women and children constituted the most vulnerable segments of Indian society. There were an estimated 2.3 million women working in the sex trade, including 575,000 children. According to estimates of the International Labour Organization, there were approximately 44 million child labourers in India. The indigenous tribes of Nagaland, Manipur and Mizoram suffered systematic discrimination and harassment. Their proprietary rights over the natural resources of their lands had been usurped. But the issue was not only one of economic, social and cultural rights. In many cases the denial of basic rights was part of a deliberate strategy to suppress certain peoples.

29. Ms. OLGUIN (International Indian Treaty Council) denounced the harmful effects of globalization and neo-liberalism on the economic, social and cultural rights of indigenous people, and particularly on their traditional means of subsistence.

30. In 1995 the Makah Tribal Council in the State of Washington (United States of America) had decided to resume exercise of its right of whale hunting, which was one of its traditional means of subsistence, recognized by the Treaty of Neah Bay, concluded with the United States of America in 1855. With the agreement of the Government of that country and through its intermediary, the Makah nation had requested the International Whaling Commission, created under the International Convention for the Regulation of Whaling, to give its authorization and a quota of five grey whales per year to meet its subsistence needs. Although the International Whaling Commission had rejected its request at its meeting in 1996, it had subsequently, at its meeting in Monaco in 1997, adopted an amendment to the

International Convention for the Regulation of Whaling allowing the Makah Tribe to exercise its aboriginal whaling rights. A number of States represented in the International Whaling Commission, in particular Australia and New Zealand, refused to recognize those rights and asserted a power to regulate their exercise according to their own ethnocentric standards of "need", which did not recognize the importance of subsistence activities such as whaling for the preservation of cultural identity.

31. Consequently, the International Indian Treaty Council requested the Commission to intervene with the International Whaling Commission to uphold the amendment to the International Convention. Given that the economic, social and cultural rights of indigenous peoples did not receive appropriate attention, the Council further called on the Commission to give consideration to the appointment of a special rapporteur on the rights of indigenous peoples.

32. Mr. WAREHAM (International Association Against Torture) said that economic, social and cultural rights were the Achilles heel of the vulgarly materialistic West. If one day they were enforced, there would effectively be one standard of evaluation for all countries. High per capita income and the right to vote did not in any way address the distribution of wealth or the quality of life for the majority of the population, as demonstrated by the situation in the world's only super-Power. In the United States of America the top 1 per cent of the population in 1997 had more wealth than the bottom 95 per cent. Some 35 million United States residents, 29 per cent of them children, were suffering from or at risk of hunger, principally because of low-paying jobs. The problem of the homeless had increased because of the lack of affordable housing.

33. Egalitarian propaganda notwithstanding, it was clear that the United States of America was a highly elitist society with no respect for economic, social and cultural rights. The situation of the 40 million Americans of African descent was illustrative of the criminal and racist inequalities which were the quintessence of American society. Death rates from diabetes and cerebrovascular disorders were considerably higher among Blacks than among Whites. In the educational area, too, the children of minorities were clearly disadvantaged.

34. The International Association Against Torture welcomed the report of the Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights (E/CN.4/1999/46 and Add.1) and requested the Commission to recommend that she conduct a mission to the United States of America.

35. Ms. KSENTINI (Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights), in presenting her conclusions, once again stressed the importance of information, communication and cooperation in the fight against an illicit traffick which, by definition, operated outside the law and often in clandestine fashion. While offering some thoughts on the obligation of transnational corporations to respect at least the regulations of the host

country, human rights and, where appropriate, the environmental and health standards in force in the countries of origin, she remained open to any constructive proposal.

36. She commended the positive move in some countries towards establishing remedies for the victims of illegal practices which threatened health and the right to life, and she invited States, organizations and institutions to report on progress achieved in that regard.

37. There should be more technical assistance to countries wishing to complete their national legislation, to train customs officers, judges, health inspectors and experts, to equip laboratories and to inform communities about the dangers of certain products. In that respect, she renewed her appeal to countries which might be in a position to help eliminate the hazardous waste currently located in Paraguay. As far as it was technically possible to identify the origin of those products, she urged that the necessary tests be carried out in order to apply the principle of returning waste to the country of emission.

38. The CHAIRPERSON said that the Commission had concluded the general debate under item 10 of the agenda.

CIVIL AND POLITICAL RIGHTS, INCLUDING QUESTIONS OF:

(a) TORTURE AND DETENTION;

(b) DISAPPEARANCES AND SUMMARY EXECUTIONS;

(c) FREEDOM OF EXPRESSION;

(d) INDEPENDENCE OF THE JUDICIARY, ADMINISTRATION OF JUSTICE, IMPUNITY;

(e) RELIGIOUS INTOLERANCE;

(f) STATES OF EMERGENCY;

(g) CONSCIENTIOUS OBJECTION TO MILITARY SERVICE (agenda item 11)

(E/CN.4/1999/39 and Add.1, E/CN.4/1999/53, 54, 55, 56 and Add.1 and 2, E/CN.4/1999/57, 58 and Add.1 and 2, E/CN.4/1999/59, 60, 61 and Add.1, E/CN.4/1999/62 and Add.1, Corr.1 and Add.2, E/CN.4/1999/63 and Add.1 to 4, E/CN.4/1999/64 and Add.1 and 2, E/CN.4/1999/65, 111, 128, E/CN.4/1999/NGO/21, 22, 23, 24, 25, 26, 30, 31, 36, 37, 43, 50, 51, 52 and 62, A/53/283 and Corr.1, A/53/501, A/RES/53/139, E/CN.4/Sub.2/1998/19, E/CN.4/Sub.2/1998/SR.24, 27, 28 and 35)

39. Mr. JOINET (Vice-Chairman of the Working Group on Arbitrary Detention), introducing the Working Group's report (E/CN.4/1999/63 and Add.1 to 4 and conference room paper without a symbol containing the Working Group's preliminary observations on its visit to Indonesia), noted that there had been intense activity since the fifty-fourth session of the Commission, with an

increase in the number of communications and urgent appeals received. The Working Group had handed down some 30 opinions and had been invited to visit four countries.

40. In Peru, the members of the Working Group had been given the unreserved close cooperation of the Peruvian authorities. Consequently, they had been able to hold private meetings with any detainees they chose. The Working Group had noted the considerable efforts that had been made to modernize the justice system, repeal contested anti-terrorist laws, reinstitute a number of defence rights and abolish "faceless courts". Certain worrying problems remained, however, in particular those relating to the independence of judges and the role of military courts.

41. In Indonesia, the members of the Working Group had also received the full cooperation of the authorities and had been left completely free to meet any detainees they wanted in private. They had also obtained information from the Government which had allowed them to locate over 200 detainees from the list supplied by NGOs. The cases that had been brought to the attention of the Working Group for the most part concerned persons who had been detained under the previous regime. The Working Group would keep those cases under review if the persons concerned were not freed within a reasonable period of time. Nevertheless, the freeing of over 200 detainees, including 10 activists of the Indonesian Communist Party who had been imprisoned for more than 30 years, was a positive indication of the goodwill of the new Government. The irregularities observed there were due partly to the fact that domestic laws were not in conformity with international standards, and partly to the professional incompetence and dishonesty of certain judges and police officers.

42. The Working Group had also visited the United Kingdom and Romania to observe the situation of immigrants and asylum-seekers who had been held in prolonged administrative custody. The two missions had been conducted in an atmosphere of excellent cooperation and had led to general conclusions regarding the minimum guarantees to be ensured by States in order to limit the risks of arbitrary detention.

43. Sir Nigel RODLEY (Special Rapporteur on the question of torture), presenting his report (E/CN.4/1999/61 and Add.1), said that the introduction referred to resolutions which he had taken into account when considering information brought to his attention. He would have liked to have dealt with a transverse theme, such as torture or human rights offenders, but the lack of financial resources had prevented him from doing so. In terms of resources, the servicing of his mandate had not improved.

44. Chapter I of the report dealt with the mandate and methods of work. As no mandate-related issues had arisen during the year under review, he had continued to cooperate with other Commission mandates so as to avoid duplication of activities. Chapter II described routine activities. In line with the invitation contained in Commission resolution 1998/38, he had presented an oral interim report to the General Assembly at its fifty-third session on the overall trends and developments with respect to his mandate. As to visits, he had conducted a mission to Turkey in November 1998, which was the subject of the addendum to the report. At the invitation of the

respective Governments, he would be visiting Romania at the end of April and Cameroon in May, and he hoped to go to Kenya before the end of the year. Since the report had come out, he had been invited to visit China. In spite of the initial favourable reactions of the permanent missions of Algeria and Egypt to his request, he had not yet been invited to visit those two countries. Nor had he received invitations as yet to visit India, Indonesia, Bahrain, Brazil or Tunisia.

45. Chapter III of the report contained brief summaries, on a country-by-country basis, of general and individual cases, as well as urgent appeals, sent to 92 countries, and replies received up to 10 December 1998. It also contained the Special Rapporteur's observations on the situations in 30 countries. A lot of the information and replies had not been included for lack of resources but would be in the next report. Chapter IV (conclusions and recommendations) referred to the interim oral report to the General Assembly. As reflected in that report, he was personally particularly concerned about the question of impunity, which had been chosen by the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture as the theme for the United Nations International Day in Support of Victims of Torture on 26 June. Among the numerous recommendations made over the years to break through the wall of impunity, he had focused on the following three. First, at the national level, States should ensure that prolonged incommunicado detention, which was any period beyond 48 hours, was not permitted. Second, at the international level, all States should speedily ratify the Rome Statute of the International Criminal Court. Third, at the transnational level, all States should put in place legislation which allowed them to bring to justice the perpetrators of human rights crimes, including torture, genocide, crimes against humanity and war crimes.

46. With regard to his visit to Turkey (E/CN.4/1999/61/Add.1), he thanked the Government of Turkey for the cooperation extended to him throughout the mission. The report on the visit dealt with information received on the scope and context of torture (chap. 1), the means of protecting detainees against torture (chap. 2) and the question of impunity (chap. 3). The conclusions and recommendations, contained in chapter 4, highlighted the fact that, generally, recourse to the most brutal forms of torture had diminished in certain parts of the country but not everywhere. Improvements may have been due to shorter periods of incommunicado detention.

47. Turning to the topic of children, he recalled that he had already dealt with the issue of torture in relation to children in his report to the fifty-second session of the Commission (E/CN.4/1996/35, paras. 9 to 17). There was nothing to suggest that children had been more frequent victims of ill-treatment or torture than adults or subjected to particular forms of ill-treatment in their status as children. However, it was clear that since they were more vulnerable, certain practices which constituted ill-treatment for adults could amount to torture for children. Most of the allegations of ill-treatment inflicted on children had been linked to detention conditions. The Commission should also pay special attention to torture and ill-treatment of street children, which were practices that many States seemed unable or unwilling to eliminate.

48. Mr. TOSEVSKI (United Nations Voluntary Fund for Victims of Torture), presenting the Secretary-General's report on the status of the Fund (E/CN.4/1999/55), said that in 1998, the High Commissioner for Human Rights had approved the recommendations of the Fund's Board of Trustees concerning grants for 149 projects submitted by some 100 humanitarian organizations in 53 countries. The grants had totalled US$ 4.2 million, compared with about US$ 3 million in 1997. However, they had covered only about two thirds of all requests which had come to US$ 6.8 million.

49. For the current year, US$ 8.2 million had been requested. Contributions already paid in to the Fund by 32 Governments, 1 NGO and 4 individuals stood at US$ 5.8 million, including US$ 3 million from the United States. A shortfall of US$ 2.4 million was therefore needed to respond to all the requests. Pledges made by the Governments of Brazil, Denmark, Greece, Luxembourg, Monaco, the Netherlands, the Philippines, the United Kingdom, Slovenia and Tunisia amounted to US$ 1,139,512. All those pledges and other new contributions would need to be paid before the next session of the Board of Trustees in order to be considered for 1999. If the pledges were paid, then the Fund would be in a much better position than before. The United Nations International Day in Support of Victims of Torture, on 26 June, should provide an excellent opportunity for Governments to participate actively in assistance to victims by making a contribution to the Fund.

50. Mr. YAMAZAKI (Japan) said that Japan attached equal importance to economic, social and cultural rights as to civil and political rights but did not believe that the lack of development should be used to justify violations of internationally recognized human rights, in particular civil and political rights.

51. For its part, the Japanese Government was making consistent efforts to improve the enjoyment of those rights and to cooperate with the Human Rights Committee in that respect. It would endeavour to apply the Committee's recommendations following the country's fourth periodic report. Japan was similarly willing to cooperate with all the Commission's mechanisms dealing with the issues raised under agenda item 11 and to help them fulfil their respective mandates. It was regrettable, for example, that the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on religious intolerance had not been allowed to visit certain countries despite receiving invitations from the Governments concerned. The security of special rapporteurs needed to be guaranteed but should not serve as a pretext for unduly delaying visits planned in agreement with Governments.

52. The Japanese delegation also believed that the adoption of the Rome Statute of the International Criminal Court in July 1998 had marked an important step towards ending impunity. The strong resolve of the international community to fight against impunity should be communicated to those who were responsible for grave human rights violations and, in that regard, the Commission had an important role to play.

53. Mr. LEWALTER (Germany), speaking on behalf of the European Union, the Central and Eastern European Countries associated with the Union and Cyprus, said that the European Union supported the goal of universal ratification of

core human rights treaties and was making a special appeal to all States who had not yet ratified the International Covenant on Civil and Political Rights to do so.

54. As to inhuman treatment, the Union regretted that 73 of the 185 members of the United Nations had not yet acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It was also inviting all the States that had not yet made the declarations provided for in articles 21 and 22 of that Convention to do so. The European Union hoped that the Working Group on the draft Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment would continue to make progress in its work. The European Union endorsed the work of the Special Rapporteur on the question of torture and his recommendations and shared his view that it was crucial to break through the wall of impunity. It invited all States to contribute to the United Nations Voluntary Fund for the Victims of Torture.

55. Turning to the rule of law, the European Union welcomed the report of the Working Group on Arbitrary Detention. It noted with concern that arbitrary detention, including for the purposes of re-education, was still widely used as a measure of repression against persons exercising their fundamental rights. It noted with satisfaction that Indonesia had abolished the system of re-education administrative detention. It was pleased that the Chinese authorities had initiated a reform of the judicial system and that they had fully cooperated with the Working Group on Arbitrary Detention during its visit to the country. The Union hoped that the new Chinese legislation would ban the imposition of re-education through labour on persons exercising their fundamental rights.

56. Furthermore, the European Union continued to support the activities of the Working Group on Enforced or Involuntary Disappearances and associated itself with the appeal to all States to implement the Declaration on the Protection of All Persons from Enforced Disappearance, as a way of combating the problem of impunity. That problem had also been raised by the Special Rapporteur on the independence of judges and lawyers and it was hoped that Governments would respond positively to requests for country visits. The European Union also shared the concern of the Special Rapporteur on extrajudicial, summary or arbitrary executions that there was no indication of a decrease in violations of the right to life. It encouraged all Governments to cooperate with the Special Rapporteur and to respond favourably to her requests for visits, as had been done by the Mexican Government.

57. The European Union also subscribed to the conclusions and recommendations of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, as well as his observations on the use of new technologies, in particular the Internet. It welcomed the detailed report of the Special Rapporteur on religious intolerance and fully shared the view that the promotion of freedom of religion or belief was inextricably linked to the promotion of democracy and development. Lastly, it was also of the opinion that extreme poverty was a serious threat to human rights and favoured extremism.

58. Mr. CASTRO GRANDE (El Salvador) stressed the efforts that his Government had made to strengthen the democratic system, ideological pluralism, national reconciliation and the establishment of the rule of law. In democratic States, the right to a regular judicial procedure was a fundamental right which placed obligations on the State and prevented arbitrariness. That right was to be found not only in domestic law but also in international law. The Vienna Convention on Consular Relations contained provisions relating to the protection of human rights and ensured inter alia a fair trial with minimum guarantees for all aliens arrested or imprisoned, or placed in pre-trial detention. In particular, article 36 of the Convention made it incumbent upon the receiving State to inform, without delay, all aliens in any of those situations of their rights, especially the right to receive assistance from the sending State. Article 36 was, therefore, closely linked to the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights insofar as it provided for the minimum guarantees of a fair trial. Article 36 of the Vienna Convention should also be applied in the absence of diplomatic and consular relations between the receiving State and the sending State.

59. Furthermore the Salvadorian Government strongly condemned terrorism and other related crimes, which violated the effective enjoyment of human rights, destabilized States and hindered the economic development of peoples.

60. Mr. VOTO BERNALES (Peru), referring to the visit to Peru by the Working Group on Arbitrary Detention early in 1998, pointed out that, as stated in the Working Group's report (E/CN.4/1999/63/Add.2), the prime purpose of the visit had been to collect information "on the laws and practices used to combat terrorism, which had been plaguing Peru since 1980". The Working Group had recognized inter alia that all cases of imprisonment reported to it related to criminal charges of terrorism or treason, and that no communications concerned detentions for ordinary offences. Indeed, only 10 per cent of persons imprisoned in Peru had been sentenced for acts of terrorism. Therefore, the cases of arbitrary detention were clearly not caused by a failure of the administration of justice, but by unfortunate exceptions resulting from a number of measures taken to combat the terrorist violence to which the country had been subjected for over 10 years. Specific anti-terrorism measures had been aimed at a very small number of people; they were exceptional in nature and were applied for a limited period only. The Working Group had noted that the system of "faceless justice" had been abolished. Furthermore, the prison regime applicable to persons convicted of terrorism had been eased. Tremendous strides had also been made in legislation, as shown in paragraph 173 of the report.

61. One of the positive effects of the Working Group on Arbitrary Detention was that it had reflected on the nature of the phenomenon of terrorism which had plagued Peru since 1980. That effort to comprehend the phenomenon was a token of the independence of the Working Group's members, compared with those who, over the years, had failed to denounce terrorism for fear of vindicating the State's action to defend society. That being said, the Working Group's severe strictures on terrorism did not attenuate the Peruvian State's liability for the abuses committed. The Government had never denied those abuses; it merely maintained that they were isolated incidents that could not be deemed a manifestation of State policy.

62. Besides its declarations of principle, the Peruvian Government had taken a series of practical measures to make amends for injustices. With particular regard to the question of arbitrary detention, Congress had set up a special committee in August 1996 to make recommendations to the President of the Republic concerning pardons for persons convicted of terrorism on the basis of insufficient evidence. That Committee was still at work and its remit had been extended to the consideration of cases covered by the Repentance Act. Following the Working Group's recommendations, the Peruvian Congress had a few days earlier passed Act No. 27079 designed to regulate the legal status of persons referred to as "innocent prisoners" in the report.

63. In addition, a new law, promulgated in November 1998 following the Working Group's visit, prohibited forced conscription. The Peruvian Government had noted the Working Group's concern at the injustices committed by the military courts against civilians. It wanted to point out, however, that, as also stated in the report, neither the Universal Declaration of Human Rights nor the International Covenant on Civil and Political Rights prohibited military courts from hearing cases in which the accused or the victims were civilians. Lastly, the Peruvian Government insisted that the detention conditions of persons convicted of terrorism had improved considerably over the years and that the problem of prison overcrowding, in particular, had been alleviated.

64. In conclusion, the Peruvian delegation, on behalf of the Peruvian Government, thanked the Working Group on Arbitrary Detention, especially Mr. Louis Joinet and Mr. Roberto Garretón, for the frankness and transparency they had displayed in their dialogue with the Peruvian authorities.

65. Mr. MICHELENA (Venezuela), on behalf of his delegation, supported the recommendations made by the Special Rapporteur on torture in his report (E/CN.4/1999/61) to eliminate all forms of torture practised in many countries. He regretted, however, that the report had not paid sufficient attention to the Governments' efforts to that end and, in particular, that it had not taken account of the information submitted to it on the subject by the Venezuelan Government to ease its concerns.

66. The struggle for human rights in Venezuela was taking place under a democratic regime, which was always prepared to undertake the necessary institutional and legal reforms to ensure better protection of human rights and put an end to situations that hindered those rights, with the participation of all citizens. The Venezuelan Government had taken numerous measures to implement the international norms designed to eliminate torture and other cruel, inhuman or degrading treatment. Special mention should be made of the entry into force of the new Code of Criminal Procedure, which established public court hearings, and the process of reform and modernization of military legislation and the administration of justice system, including the new Prosecution Organization Act and the Career Judicial Service Act, which had abolished certain undesirable practices unworthy of Venezuelans' libertarian tradition. Moreover, 1996 had seen the creation of the National Human Rights Commission with, under it, a subcommittee responsible for investigating complaints of human rights violations.

67. Mr. ERMAKOV (Russian Federation) said that while civil and political rights should in no way be opposed to economic, social and cultural rights, it was indisputable that the former constituted the basis on which, in a few centuries, the human rights edifice had been constructed. Nowadays, the phenomenon of globalization, which affected economic, social and cultural rights, also affected civil and political rights.

68. There was currently a rapid increase in the number of non-State protagonists actively involved in international activities. Having no obligation with regard to human rights, and often possessing considerable means and financial resources, they tended all too often to offer their services to Governments wishing to expand their sphere of influence. Some used corruption, for instance, to try to undermine democratic institutions. Others attacked the institution of the State, encouraging separatism and resorting to terrorism, hostage-taking and forced disappearances. Torture and arbitrary executions were no longer the preserve of totalitarian regimes, but were currently used by separatists and other armed groups in conflict with the State. Civil rights were seriously threatened by international crime, whose tentacles extended to the traffic in human beings and the drugs trade.

69. The globalization of information systems increased the possibilities of manipulating public opinion. Freedom of information risked being replaced by freedom of disinformation. Such fears were exacerbated by the media storm raging around the tragic events being played out in the former Yugoslavia. Information campaigns had laid the groundwork for aggression, and the role of the media had remained very important. Thus, the international media said little about Serb refugees leaving Kosovo in an attempt to escape the ethnic cleansing organized by the Kosovo Liberation Army, or about the obvious link between the mass exodus of Albanian refugees and the strikes on Yugoslavia. In that connection, he recalled that in her report (E/CN.4/1999/39), the Special Rapporteur on extrajudicial, summary or arbitrary executions had, inter alia, recommended that Governments should at no time allow acts of incitement to hatred and intolerance that might lead to collective violence. Moreover, the power of the mass media might well herald a policy of brainwashing or, at the very least, manipulation of individual thought. Population groups could become the easy target of extremist ideologies, situations that had already arisen in Russia and Europe.

70. The best guarantee of protection of civil and political rights was the existence of an independent judiciary, which was why, among the reforms currently applied, Russia attached special importance to reform of the judicial system. In practice, alas, there was no shortage of problems, including material problems. In terms of legislation, many basic texts would need to be adopted rapidly, such as the Code of Criminal Procedure, the Code of Civil Procedure, the Code of Administrative Infractions, the Bar Act, or the Act on Compensation for Injuries caused by the State. In addition, the number of judges was still insufficient, while the number of law suits brought before the courts was on the rise. Compared with 1997, the courts' workload had increased by 12.9 per cent. Reform of the judicial system went hand-in-hand with reform of the prison system. Two measures had been taken to reduce the number of detainees in an effort to combat prison overcrowding; the

Russian Federation was cooperating closely with the Council of Europe in that area. Lastly, it should be pointed out that the process for abolishing the death penalty was in its final stages.

71. Ms. BIE (Norway) thanked the Special Rapporteurs for their outstanding contribution to public knowledge on the issues covered by agenda item 11, and stressed the need for sufficient resources to be allocated for the fulfilment of their mandates.

72. Equitable distribution of power between the executive, the legislative and the judiciary was central to the rule of law. Democracy could not survive without an independent, impartial judiciary that guaranteed fair application of the laws and protected individuals against infringement by States.

73. Norway welcomed the 1998 adoption in Rome of the Statute of the International Criminal Court, which, when established, would significantly enhance deterrence from the most heinous international crimes. What was currently needed was to mobilize the Rome spirit and ensure an early establishment of the Court.

74. Where torture was concerned, it was vital for all countries to enact effective legislation on prosecution and punishment of individuals who used it. It was especially important for the many groups at risk that allegations of torture or ill-treatment should be investigated promptly, impartially and thoroughly. All countries should also cooperate fully with all the international human rights protection mechanisms. For its part, the Norwegian Government had taken several measures to implement the proposals formulated, including those by the United Nations Committee against Torture, to improve its use of remand in custody. It was also important to intensify efforts so that preparation of the draft Optional Protocol to the Convention against Torture might soon be concluded.

75. Lastly, the Norwegian delegation stressed the vital importance of freedom of expression and opinion, including freedom of the media, in a truly democratic society, as well as the crucial role played in that regard by a great many non-governmental organizations, which furnished valuable information on violations of those freedoms in a number of countries.

76. Mr. PACURETU (Romania) said, first of all, that his delegation endorsed the European Union's statement under item 11. He went on to highlight the Romanian Government's concrete policies aimed at implementing the recommendations made by the Working Group on Arbitrary Detention, following its visit to Romania in September-October 1998. As a result, the rightly criticized Centre for Illegal Migrants at Giurgiui had been closed down on 26 January 1999, and the new law on the status of aliens, drafted in accordance with the appropriate international standards, had been passed by the Senate and was currently before the Chamber of Deputies. The Romanian Government had also drawn up a national plan for the adoption of the European Union's legacy of legislation, comprising programmes aimed at promoting freedom of movement and protecting aliens in Romania against arbitrary detention.

77. The Romanian Government had also cooperated fully with the Special Rapporteur against torture, and had invited him to visit Romania at the end of April. As a member of the Commission, Romania would support the draft resolution aimed at adopting new instruments for protection against torture.

78. Turning to item 11 (e), he said that significant steps had been taken in Romania to promote dialogue and understanding among the various religions existing in the country, more than 15 of which received State financial support, while 385 licenced religious associations also benefited from various forms of support. Thanks to the dialogue between the Orthodox and Greek Catholics, solutions had been found to the problem of religious property confiscated under the previous regime, which had been returned to the respective churches. Buildings had also been returned to ethnic and religious minorities, such as Jews and Presbyterians.

79. In addition, Bucharest had hosted the Twelfth International Convention, which had been attended by representatives of all the world's religions. It was also to be noted that, for the first time in its history, Romania would be receiving a visit from His Holiness Pope John Paul II early in May, at the invitation of the Romanian Orthodox Church.

80. Mr. JANSONS (Latvia) said that the significant population movements that had taken place in the world over the past decade had highlighted the problem of bridging the gap between national identity and nationality. Firstly, given the variety of the contexts in each region and even in each country, it was highly unlikely that a global solution to the problem would be found and it was advisable to proceed on a case-by-case basis. Secondly, efforts should be made to redefine the notion of nationality so as to consolidate the multi-ethnic nature of societies, as Latvia had done. Attempts to impose artificial uniformity on the issue could only delay the integration of persons belonging to different ethnic, cultural or religious backgrounds.

81. The principle whereby the determination of nationality was a question of national law had already been established by the Permanent Court of International Justice in 1923 and was embodied in the latest pertinent legal instrument, the European Convention on Nationality. Since the adoption of the Universal Declaration of Human Rights, the concepts of nationality and citizenship had changed considerably, as attested to by the emergence of the notion of European citizenship and amendments in some countries' nationality laws. For that reason, Latvia supported the idea, set forth in Commission resolutions 1997/36 and 1998/48, to take all particular circumstances into account and to continue to collect information on the question from all relevant sources.

82. Legislative changes had also occurred in that field in Latvia. Thus, amendments, adopted by referendum, to the 1994 Law on Citizenship governing nationality provided the right of every child born in Latvia to become a Latvian citizen upon the request of his or her parents, and the system of quotas by age applied to nationality applicants had been abolished. Those changes had been welcomed not only by Latvian society itself but also by a number of other countries and international organizations.

83. Mr. ZAHRAN (Observer for Egypt) noted that international cooperation for fighting terrorism was not equal to the problem posed by terrorism. Indeed, the right to political asylum continued to be abused for the protection of terrorists; the concept of political crime continued to impede various forms of penal cooperation; and the idea of an international conference to study all aspects of terrorism continued to be plagued by difficulties.

84. With regard to torture, the Egyptian delegation fully supported the draft protocol to the Convention against Torture, because it was the concrete outcome of international cooperation in that field founded on prevention. In order to ensure its practical implementation, it would clearly be necessary to determine responsibilities on the basis of objective, rather than selective, criteria. Establishing such conditions called for respect for national laws, which needed to conform to the provisions of the Protocol from the moment the States concerned had ratified it. The main task was to eliminate any ambiguity with regard to responsibilities and roles, so that the Protocol could be credible and effective.

85. The Egyptian delegation also wished to stress that the Egyptian Government had always cooperated with the mechanisms of the Commission on Human Rights, especially the Special Rapporteur against torture, whose visit to Egypt had not taken place because the dates he had proposed had not been convenient. Egypt would pursue its dialogue with the Rapporteur and continue to respond to his requests for information.

86. Mr. HOLST (Observer for Denmark) said his delegation fully supported the statement made by the representative of Germany on behalf of the European Union. However, he wished to stress the urgent need for speedy finalization and adoption of the basic principles and guidelines relating to the right to compensation for victims of gross violations of human rights and international humanitarian law, prepared by Mr. van Boven and contained in the note by the Secretary-General (E/CN.4/1997/104). There was an urgent need to formulate specific recommendations on the right of torture victims to restitution, compensation and rehabilitation. Such victims had normally been deprived of all their possessions, educational opportunities or professional development, or of the opportunity to develop normal human relations and found a family. They ended up poor and isolated, which was why the international community should insist on compensation.

87. The Danish delegation welcomed the request made by the independent expert, Mr. Bassiouni, in his report (E/CN.4/1999/65) concerning adoption of a uniform terminology in that area, the idea of continued systematic review of national practices and the need to monitor the implementation of guidelines. Such a review should not, however, delay the adoption of basic principles and guidelines; on the contrary, examination of those practices should profit from experiences gained in the practical implementation of the guidelines.

88. Mr. KAVSADSE (Observer for Georgia) said his country had embarked upon a vast reform process to ensure respect for the rights enshrined in the

Universal Declaration of Human Rights. With that in view, a Ministry of Human Rights had been set up, the powers of the Constitutional Court had been extended, an Ombudsman with a seat in Parliament had been elected, and the death penalty had been abolished. Moreover, civil society was monitoring prison management under a preventive visiting system established in 1994.

89. Georgia unreservedly supported the preparation of an Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment, and hoped that the Working Group would successfully conclude its task. In that regard, his country wished to pay tribute to the International Committee of the Red Cross, Amnesty International and the Association for the Prevention of Torture, among others, not only for their contribution to that undertaking, but also for the vital assistance they were providing to Governments in the field of human rights protection.

90. Mrs. BU FIGUEROA (Observer for Honduras) said that as part of the policy of respect for and protection of human rights undertaken by the Honduran Government, many judicial changes had occurred in Honduras. In 1993, Parliament had adopted the Public Prosecution Act under which the Procurator-General of the Republic was empowered to investigate arbitrary detentions and ensure respect for the human rights of prisoners. In 1995, the Act on organization of the National Human Rights Commission responsible for guaranteeing respect for rights and freedoms recognized in the Constitution and in international instruments ratified by Honduras had been adopted. Attention should also be called to the creation of a national civil police force, attesting to the determination of the Honduran political class to demilitarize public safety and monitor violations of the rights of citizens. Moreover, a thorough overhaul of the administration of justice had been undertaken to meet the new requirements of a demilitarized civil society founded on strict respect for human rights. A new Code of Criminal Procedure was being prepared and the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders continued to offer assistance for improving the Honduran judicial system. Such measures were of crucial importance because it was on fair administration of justice that true democracy and, therefore, respect for the rule of law, human rights and the human being relied.

91. Mr. VAN RIJSSEN (Observer for the Netherlands) said that, despite the adoption of numerous regional and global instruments devoted to the right to freedom of religion or belief, and the commitment by States to do all in their power for that right to be respected, in many regions of the world people were subject to discrimination, unlawful restrictions and even persecution on grounds of religion or belief.

92. Experience had shown that religious intolerance and discrimination could not be countered by legislative measures and legal remedies alone. Priority should be given to prevention and to addressing the root causes, rather than the symptoms, of intolerance. In a world of enormous religious and cultural diversity, action should be especially taken to promote education and the

dialogue needed to build bridges between religions and traditions. In the Netherlands, for instance, various local councils of representatives from different faiths had been established in recent years. They facilitated inter-religious cooperation and served as a clearing-house for complaints about religious discrimination, regardless of the belief at stake.

93. Considering that racial discrimination, xenophobia and religious intolerance were often closely linked, the Netherlands delegation proposed giving freedom of religion, and ways of promoting it, due attention at the World Conference against Racism in 2001.

The meeting rose at 1 p.m.